

HAARHOFF, HERTOG & BURKE.

ATTORNEYS, NOTARIES,
CONVEYANCERS
AND SWORN TRANSLATORS.

TELEGRAPHIC ADDRESS,
"HAARHOFFS"

823. 2
Kimberley.
Cape of Good Hope.

11th December 1917.

S. Minchin, Esqr.,
Mafeking.

Dear Sir,

re Montsiosa ats Matlaba & Others.

Referring to the above matter, we are herewith enclosing copy of a letter from the Inspective Native Reservee to the Resident Magistrate, Mafeking, dated 6th December 1904, which was handed to us by Mr. Brown in connection with the Phoi case, Counsel being of opinion that the facts therein should be brought to your notice.

Yours faithfully,

Haarhoff Hertog & Burke

encl:

HAARHOFF, HERTOG & LANGE.

ATTORNEYS, NOTARIES,
CONVEYANCERS
AND SWORN TRANSLATORS.

TELEGRAPHIC ADDRESS,
"HAARHOFFS"

4, Market Street,

Kimberley.

6th April 19 20

S. Minchin Esq.,
MAFEKING.

Dear Sir,

re APPEAL MONTSIOA vs. MATLABA AND OTHERS

With further reference to our letter of the 20th ult., under separate registered cover we are forwarding you a batch of correspondence and documents in our possession in connection with the above case which we think embraces the whole of the documents asked for by you, with the exception of those previously forwarded.

However, should you clients find that there are *and which are in our possession* any further documents they require, we shall be glad to be advised, when we shall forward them to you.

Yours faithfully,

Haarhoff, Hertog & Lange

P.S. Documents per rail.

23rd. December 1920.

To the

Chiefs and headmen

in the District of Mafeking

Greetings,

The Government wishes me to draw your attention to the judgment given in the Supreme Court in the case of MATLABA versus MONTSIOA & OTHERS and particularly to bring to your notice the following points :

1. In that case the Native Reserves are definitely declared to be Crown Land inalienably reserved for the use and occupation of Natives but SUBJECT TO THE provisions of the Native Locations Act No. 37 of 1884.

In this decision are involved the collection of Hut Tax and the allocation of land.

(a) HUT TAX is a Government Tax imposed under Act 37 of 1884 and this Act lays upon the Inspector of Locations the duty of collecting the tax under the ~~INSPECTION~~ supervision of the Magistrate. Originally the tax was collected by the Inspector and probably by a wrong interpretation of Proclamation No.32 of 1887, the Chiefs and Headmen now collect the tax. In order to comply with the law the Government directs that the tax must be paid direct to the Inspector, and looks to the Chiefs and Headmen to loyally assist the Inspector by producing their people and by giving them notice when the Inspector will visit their Stads for the collection of tax.

(b) ALLOCATION OF LAND: Under Act 37 of 1884 the final authority for the allotting of land is vested in the Governor-General as the Representative of the King and that authority is exercised through the Inspector and the Magistrate. There is no intention to disturb exis-

allocation
ting of land except in cases where the interest and rights of the Native people are concerned.

2. The Supreme Court also decided that the Chiefs and minor Chiefs can exercise jurisdiction over the members of their own tribes only after having been duly recognised by the Government.

This jurisdiction is conferred by Proclamation No. 2 of 1885 and only on Chiefs and minor Chiefs, but not on Headmen and Councillors who have in the past been in the habit of exercising judicial functions reserved to Chiefs.

No other person than the Chiefs recognised and ^{appointed} ~~approved~~ by the Government have judicial powers supported by legal sanction.

When the case is not one between members of the same tribe the Magistrate only has jurisdiction.

3. The Supreme Court further decided that the Chief's jurisdiction is personal but not territorial. This means that the Chief cannot exercise jurisdiction over any particular area (such as the Molopo Reserve) but only over the Natives belonging to his own tribe.

A.R. Wilmot

M A G I S T R A T E.

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Silas T MOLEMA and Solomon T PLAATJE Papers

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